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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/859,533	05/18/2001	Gary Reiner	MAW-0001-US	3491

7590

09/23/2005

Supervisor, Patent Prosecution Services
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EXAMINER

GRAHAM, CLEMENT B

ART UNIT PAPER NUMBER

3628

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/859,533

Applicant(s)

REINER, GARY

Examiner

Clement B. Graham

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/29/01, 03/04/02
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-43, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, claims 1-43, do not recite any structure or functionality to suggest that a computer performs the recited claims. Thus, claims 1-43, are rejected as being directed to non-statutory subject matter. Applicant's is advised to imbed a computer in the body of the claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3628

3. Claims 1-43, are rejected under 35 U.S.C. 102(e) as being anticipated by Rackson et al (Hereinafter Rackson U.S Patent 6, 415, 270).

As per claims 1-30, Rackson discloses a method for auctioning, to a purchaser, wines ("i. e, products") from a local retailer using a host auction company via a network, the method comprising:

the local retailer consigning the wines to the host auction company the host auction company auctioning the wines; the purchaser purchasing the wines and purchaser obtaining the purchased wines directly from the local retailer. (see column 3 lines 59-67 and column 4 lines 1-55 and column 6 lines 45-67 and column 7 lines 1-37 and column 8 lines 7-63).

As per claim 31, Rackson discloses a method for auctioning, to a purchaser, wines from a local retailer using a host auction company via a network, the method comprising:

the local retailer consigning the wines to the host auction company;
the host auction company auctioning the wines; the purchaser purchasing the wines;
and the purchaser obtaining the purchased wines from the host auction company acting on behalf of the local retailer. (see column 3 lines 59-67 and column 4 lines 1-55 and column 6 lines 45-67 and column 7 lines 1-37 and column 8 lines 7-63).

As per claim 32, Rackson discloses a method for auctioning, to a purchaser, wines from a local retailer using a host auction company via a network, the method comprising:

the local retailer consigning the wines to the host auction company; the host auction company auctioning the wines; and the purchaser purchasing wines from the local retailer in conjunction with the host auction company acting as licensed agent of the local retailer. (see column 3 lines 59-67 and column 4 lines 1-55 and column 6 lines 45-67 and column 7 lines 1-37 and column 8 lines 7-63).

As per claim 33, Rackson discloses a method for auctioning, to a purchaser, wines from a local retailer using a host auction company via a network, the method comprising:

Art Unit: 3628

the local retailer consigning the wines to the host auction company; the host auction company auctioning the wines;
the purchaser purchasing wines from the licensed wine auction retailer in conjunction with the host auctioneer acting as licensed agent of the local retailer; the host auction company using a third party online company to display wines in auction format; and the third party online company to act as an auction medium of the host auction company. (see column 3 lines 59-67 and column 4 lines 1-55 and column 6 lines 45-67 and column 7 lines 1-37 and column 8 lines 7-63).

As per claims 34-43, Rackson discloses a system for auctioning, to a purchaser, wines from a local retailer using a host auction company via a network, comprising:
at least one terminal coupled to the network; and
a server for the host auction company coupled to the network;
wherein the local retailer consigns the wines to the host auction company; wherein the host auction company auctions the wines via the at least one server and via the network;
wherein the purchaser purchases the wines via the at least one terminal via the network; and wherein the purchaser obtains the purchased wines from the local retailer. (see column 3 lines 59-67 and column 4 lines 1-55 and column 6 lines 45-67 and column 7 lines 1-37 and column 8 lines 7-63).

Conclusion

4. The prior art of record and not relied upon is considered pertinent to Applicants disclosure.

Hills et al (US 6, 238, 366 Patent) teaches check writing point of sale system.

Norton(US Patent 6, 243, 689) teaches system and method for authorizing electronic funds transfer at a point of sale.

Blumberg (US Patent 6, 260, 758) teaches method promotional financial transaction machine method.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

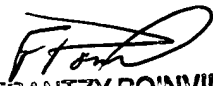
Art Unit: 3628

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on 703-305-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

September 6, 2005


FRANTZ POINVIL
PRIMARY EXAMINER
AU 3628